

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 249 of 1983

WITH

CIVIL APPLICATION NO. 4214 OF 1983

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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VIRMATI JETHUMAL VITHANI

Versus

LILADHAR J VITAHNI .

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Appearance:

MR JR NANAVATI for Petitioners

MR CH VORA for Respondent No. 1

SERVED for Respondent No. 3, 4, 5

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 18/07/97

ORAL JUDGEMENT

This appeal at the instance of the original plaintiffs is directed against the order dated September 9, 1983 passed by the Civil Judge (S.D.) Bhuj, on Ex.5 in Civil Suit No. 89 of 1982 rejecting the application for

interim injunction.

In the suit filed by the plaintiffs for partition of the suit properties, they prayed for interim injunction to restrain the defendants from transferring or alienating the suit properties. Initially the trial Court granted ad-interim injunction as prayed for and thereafter dismissed the application by judgment and order dated September 9, 1983. Aggrieved by the above order, the plaintiffs have preferred the present appeal.

Notice was issued by the Court and thereafter the appeal was admitted in December 1983. While issuing notice on the Appeal ad-interim injunction was granted by this Court on October 3, 1983 restraining the defendants-respondents from transferring, alienating or otherwise dealing with the suit properties during the pendency and final hearing of the appeal. The injunction has continued for last more than 13 years. Today when the matter is called out, nothing has been brought to the notice of the Court for vacating the said injunction at this stage or for permitting the defendants to transfer the suit properties during the pendency of the suit. When the suit properties are the subject matter of partition suit and the defendants have been restrained from transferring or alienating the suit properties for the last thirteen years, the said injunction is required to be continued till disposal of the suit.

In view of the above discussion, the Appeal from Order is allowed. It is directed that the ad interim injunction granted by this Court in terms of para 4 of the Civil Application on October 3, 1983 shall continue

Civil Application stands disposed of accordingly.

There shall be no order as to costs.

Since the suit is of the year 1982, the trial Court is directed to hear and decide the suit latest by September 30, 1997.

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